P/8E

App F IX 4

Previous References

1953-54
(C M)

File No 30-53-

Serial Nos 1 2,

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos 2

Part B for June 1953

SUBJECT

Refund of deposit made during the last Corporation Election in 1950

WD 01485—GPB—25 000—1 9 195

L 2859 / dated 3-6-53

The Commissioner
Corporation of the city of Bijapur

Intimates that Sri T N Ramachandra Setty is not entitled to the refund of deposit

PB

Refund of deposit made during the Corporation election held in 1950

General and Revenue Secretariat | File No 7612/Rd of 1952-53 | [App I III 2

WD 014428—CPB—40 000—13-7-51

Serial No

Proc

The Secretary, B'lore Corpn

No. GL 6028/52 53 Dt 23 12 52

Seeks clarification as to whether the deposit is returnable after the presented time of the candidate files an objection petition challenging the validity of the elections

Rule 4 (8) of the Rules for the Election of the Divisional Councillors of the B'lore Corporation & mandates A clause for refund of the election deposit beyond 6 months from the date of declaration of the election results is unreasonable and the amount is forfeited to the Corporation

2) Sri T N Ramachandra Rao was one of the candidates who stood for election to the last Corporation ~~General~~ elections held on 23-12-1950 After his defeat he filed an objection petition before the District Court, B'lore Contesting the validity of the elections The case dragged on for a year and - he ~~the~~ thereafter he withdrew his objection petition ~~thereby~~ the procedure of the Case he did not claim for refund of

NOTE—Contn Sheet

less deposit to which he appears to be eligible as he feared such withdrawal to be prejudicial to his case

3) The point for consideration was as whether a litigation which a candidate is conducting as regard to his election case be depended upon by him to ask for an extension of the time limit for claiming refund of the deposit amount.

4) When a case is remitted to its logical conclusion and an order is passed by the Court declaring an election void, the following consequences under Rules 13 and 14 of the Rules for the adjudication of disputes arising out of election of Councillors and Aldermen of the corporation

The seat of the returned candidate shall be deemed to be vacant from the date of the order of the Court and the authority concerned shall forthwith take the necessary steps for holding such fresh election"

" That every party to the petition who has under these Rules claimed the seat has been duly elected

~~If it is for whom there may be no question~~ 5) Where the election is held

Refund of deposit made during the Corporation election held in 1950

[App F III 2

General and Revenue Secretariat | File No 761/Sel of 1952-53

WD 014428—GPB—40 000—13-7-51

Serial No

A

B

C

Void and fresh elections are ordered there may not arise a need of refunding the deposit for an election but at the election in respect of which the deposit is made is itself declared invalid and it cannot be an election at all

b) If the Candidate party to the petition who has claimed the seat is declared by the Court to be elected, then the date of declaration of the result as the case may be the date of the Court passing the order and he is perhaps to be deemed to have time to claim refund within 6 months from the date of the Court order

7) In the case of Sri T.V. Ramachandra Rao was at issue as he filed before the Court has withdrawn the petition and has also not preferred the claim for refund within the prescribed period he may not be entitled to a refund

8) The Law Secretary may perhaps be consulted on para A, B and C above

Rule 4(8) The Election rules clearly lay down that the party claiming refund must apply within

Please see the rules for the election Dy. Commissioner 25/2

NOTE—Contn Sheet

A copy of the rules as printed in the Gazette of India dt 17/3/52 is enclosed

Refund of deposit made during the Corporation election held in 19 50

File No 76124/Tech 4 of 19

General and Revenue Secretariat

Serial No

93

Law

6 months from the ~~date~~ date of declaration by the Comm of the Results of the election or where such declaration is made on two different dates, within 6 months from the later of such dates. It is not stated in the rule ~~that~~ that the party can ~~after~~ apply for refund ~~words from the date of such date~~ or within 6 months from the date of the ~~election~~ declaration of election by a competent Court if the aggrieved party has preferred an appeal to that Court. Therefore in this case, the party is not entitled for a refund of deposit Law Secy may kindly be consulted

A

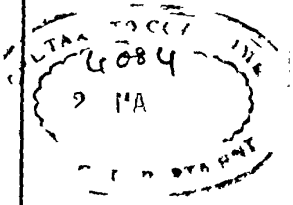
17/3

Secy
Dy P

10) for fo remarks

Law Secy 29/3 29/3

11) I agree with the view expressed as at A in Para 4 Rule 4(1)(8) of the Election Rule is clear under this Rule, a claim for the Refund of the deposit must be Refused or Send by post to the Commissioner



12/4/5
20/3/63

Law Secy
4/4
Dy
4/4

Refund of deposit made during the Corp. election held on 1950 93 Law of 19 5

[App F III 2

General and Revenue Secretariat

761/5nd File No

WD 015452—GPB—PZS—40 000—1 10-51

Serial No

within 6 months of the date of declaration by the Returning Officer of the results of the Election. No provision is made for the deduction of any fees during which the Election petition is pending before the Circuit Court nor has the 6 months' rule any reference to the date of the trial of the Election petn.

(Law Secy)

15/4

I agree

(Secy L-G)

9/5

6/5

Draft letter to the Corporation, Bloemfontein Corporation to please for approval

Secy 12/5/53

for perusal before issue

8pr 13/5

(Hon Minister for L & G)

20/5/53

21/5

Issue

8pr 21/5

P.T.O.

OFFICE OF THE SECRETARY FOR PUBLIC HEALTH & SOCIAL SERVICES

15 MAY

No. 932

SECRETARY TO THE CABINET 21 MAY 1953

SECRETARY TO THE GOVERNMENT LAW DEPARTMENT 15 MAY 1953

SECRETARY TO THE CABINET 1386 6 MAY 1953 LAW DEPARTMENT

Note—Cont'n Sheet.

Serial No

Read letter no Lo 2859/C & 30 dt 2 Dated 3 6 53 to be Committee over, Above Corporation Commissioner that Sri T N Ramachandra Reddy is not entitled to get a refund of the deposit

B
15/6/53
89/16/6

CORPORATION OF THE CITY OF BANGALORE

No G1 6028/52-53

CORPORATION OFFICES
BANGALORE

Dated 23rd December 195 2

FROM

K. HENJERAPPA ESQ., B.A., B.L.,
COMMISSIONER
CORPORATION OF THE CITY OF BANGALORE,
BANGALORE

To

The Secretary to the Government of Mysore,
Local Self Government Department,
Bangalore

SIR,

SUBJECT Refund of deposit made during the last Corporation election in 1950

***

I enclose a copy of the letter dated 5th September 1952 from Sri T N Ramachandra Setty, who stood as a candidate for division No 21 in the Corporation elections held in 1950 He was defeated by his rival candidate and after the declaration of the results he filed a suit in the District Court to set aside the election He withdraw the suit in March 1952 The point at issue is, whether he is entitled to take back the security amount furnished by him at the time of filing his nomination paper Rule 4 (8) of the rules regulating the procedure to the election of the Divisional Councillors is mandatary to the effect that the refund shall not be returned unless a claim is made within six months of the date of declaration by the Commissioner of the results of the election

In view of the reasons put forth by him in his letter cited above, the opinion of the Corporation Advocate was sought for and his opinion is extracted below

> "Rule 4 cl (8) of the Election Rules clearly declares that a claim beyond six months from the date of declaration of the election results by the Commissioner is inadmissible and the deposit shall be forfeited
>
> But if the fact that the candidate was conducting litigation in regard to the election can be depended upon by him to ask for an extension of the period of limitation is one on which the returning officer may if he so desires make a reference to Government for their elucidation so that it may serve as a guidance in such cases "

p t o

As there seems to be reasonable grounds in such cases where the parties have lodged election petitions and as there are a few similar cases I request that the Government may be pleased to amend the rule in question suitably and issue orders in this instance also

Yours faithfully,

K Henjerappa 24/12

(K Henjerappa,)
COMMISSIONER

Copy of the letter dated 5-9-1952 from ~~the petioner named by~~ Sri T N Ramachandra Setty, Visveswarapuram to the Commissioner, corporation of the city of Bangalore

---

I, the undersigned T N Ramachandra Setty, stood as a candidate in the Corporation elections held on 23-12-50 I stood from the Visveswarapuram constituency I deposited as per rules Rs 100/- towards my candidature after the elections I filed an -election dispute case in the ~~District~~ court Bangalore and the same was pending for a year During the pendency of the dispute I did not withdraw the deposit as I was advised that if with-drawn the case may be affected, I was also under the impression that the same will remain as a deposit if fresh elections are to be held after my petition is allowed but due to several friendly influences I have to with-draw my petition and did accordingly after the with-drawal of the case I applied for the refund of my deposit amount I was issued an endorsement, that my application for refund is time barred and the deposited amount cannot be refunded I request you to kindly consider the good faith and bonafides that induced me not to take back the amount and submit my application to the benign Government for their sanction to pay the deposit amount back

~~Sri T.N. Ramachandra Setty~~
Petitioner.
1 Copy"

for Commissioner

NOTIFICATION

N L 51 8—C M 30-50 2 d t d 1 g 1 1 th A gust 1950

In exercise of the powers conferred by sub section (1) of Section 68 of the City of Bangalore Municipal Corporation Act 1949 (LXIX of 1949) His Highness the Maharaja of Mysore is pleased to make the following rules for the adjudication by the Court of the District Judge Bangalore Division of disputes arising out of elections of Councillors or Aldermen of the Corporation of the City of Bangalore and for an appeal on a point of law to the High Court from the decision of such Court

Rules

Save as otherwise provided no election held under the City of Bangalore Municipal Corporation Act 1949 (hereinafter referred to as the Act) of a Councillor or an Alderman of the Corporation of the City of Bangalore shall be called in question except by an election petition presented in accordance with these rules to the court of the District Judge Bangalore Division (hereinafter referred to as the Court) by any candidate or elector against the candidate (hereinafter called the returned candidate) who has been declared to have been duly elected

2 The petition shall be presented within seven days of the date of the declaration of the result of the election and shall contain a statement in concise form of the material facts on which the petitioner relies and the particulars of any corrupt practice which he alleges and shall where necessary be divided into paragraphs numbered consecutively It shall be signed by the petitioner and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure

3 The petitioner may if he so desires in addition to calling in question the election of the returned candidate claim a declaration that he himself or any other candidate has been duly elected in such case he shall join as respondent to his petition all other candidates who were nominated for the election but had not withdrawn before the polling

4 (1) At the time of the presentation of the petition the petitioner shall deposit with it as security for the costs of the same a sum of two hundred rupees in cash

of the Election and Provision is made for the deduction

(2) If the provisions of sub rule (1) are not complied with the Court shall dismiss the petition

(3) Upon compliance with the provisions of sub rule (1) the Court shall proceed to enquire into the petition

5 The Court shall as soon as may be cause a copy of the petition to be served on each respondent and on the Commissioner of the Corporation of Bangalore Copies shall also be affixed to the Notice Board of the Court and of the Municipal Office It may also call on the petitioner to execute a bond in such amount and with such sureties as it may require for the payment of any further costs At any time within fourteen days after such publication any other candidate shall be entitled to be joined as a respondent on furnishing similarly such security as may be demanded by the court

6 Every election petition shall be enquired into by the Court as nearly as may be in accordance with the procedure applicable to the trial *of suits in the Court of the District Judge Bangalor Division*

7 (1) No election petition shall be withdrawn without the leave of the court

(2) If there are more petitioners than one no application to withdraw a petition shall be made except with the consent of all the petitioners

(3) When an application for withdrawal is made notice thereof fixing a date for the hearing of the application hall be given to all other parties to the petition and shall be published as specified in Rule 5

(4) No application for withdrawal shall be granted if the Court is of opinion that such application has been induced by any bargain or consideration which it considers ought not to be allowed

(5) If the application is granted—

(*a*) the petitioner shall be ordered to pay the costs of the respondent theretofore incurred or such portion thereof as the Court may think fit and

(*b*) such withdrawal shall be communicated to the Commissioner of the Corporation by the Court

8 An election petition shall abate on the death of a sole petitioner or of the survivor of several petitioners and such abatement shall be communicated to the Commissioner of the Corporation by the Court

9 Where at any inquiry into an election petition any candidate other than the returned candidate claims the seat for himself the returned candidate or any other party to the proceeding may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented complaining of his election

10 At any enquiry into an election petition the Commissioner of the Corporation of Bangalore may appoint a legal practitioner or other person to attend and take such part therein as the Court may allow

11 If in the opinion of the Court—

(*a*) the returned candidate his agent or any other person with the connivance of such candidate or agent has committed or abetted the commission of any election offence punishable under Section 69 of the Act or under Chapter IX A of the Indian Penal Code or

(*b*) the election of the returned candidate has been procured or induced or the result of the election has been materially affected by any of the following corrupt practices —

(i) any election offence punishable under Section 69 of the Act or under Chapter IX A of the Indian Penal Code when committed by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent

(ii) any payment or promise or payment to any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote

(iii) the hiring employment borrowing or using for the purpose of election of any vehicle or animal usually kept for letting on hire or for the conveyance of passengers by hire

Provided that any elector may hire any vehicle or animal or use any vehicle or animal which is his own property to convey himself or from the place where the vote is recorded

(iv) the hiring using or letting as a committee room or for the purpose of any meeting to which electors are admitted of any building room or other place where intoxicating liquor is sold to the public or

(*c*) the result of the election has been materially affected by any irregularity in respect of any nomination

of the Election no proceedings can be made for the declaration

or the improper acceptance or refusal of any nomination or by the improper reception or refusal of a vote or by any non compliance with the provisions of the Act or the rules made thereunder the election of the returned candidate shall be void subject to the provisions contained in rule 12 below

Provided that if the Court is of opinion that any corrupt practice specified in clause (*b*) of this rule which does not amount to any form of bribery other than treating as hereinafter explained has been committed and if the Court is further of opinion that the candidate has satisfied it that—

(*a*) no corrupt practice was committed at such election by the candidate and that any corrupt practices committed were committed contrary to the orders and without the sanction or connivance of such candidate and

(*b*) such candidate took all reasonable means for preventing the commission of corrupt practices at such election and

(*c*) the corrupt practices committed were of a trivial unimportant and limited character and

(*d*) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents then the court may find that the election of such candidate is not void

Explanation —For the purpose of this rule treating means the incurring in whole or in part by any person of the expense of giving or providing any food drink entertainment or provision to any person with the object directly or indirectly of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting

12 If the validity of the election is brought in question only on the ground of an error by the officer or officers charged with carrying out the rules made under Section 68 of the Act or of an irregularity or informality not corruptly caused the Judge shall not set aside the election

Explanation —The expression error in this sub section does not include any breach of or any omission to carry out or any non compliance with the provisions of this Act or Rules made thereunder whereby the result of election has been materially affected

13 (1) At the conclusion of the enquiry the Court shall declare whether the election of the returned candidate is void under Rule 11

(2) If it declares the election of the returned candidate void it shall further pass an order either—

(*a*) declaring that any other party to the petition who has under the e rules claimed the seat has been duly elected or

(*b*) ordering a fresh election

(3) The order of the Court under sub rules (1) and (2) shall subject to the decision of the High Court under Rule 15 be final

(4) A copy of every order under sub rule (1) or sub rule (2) shall be communicated to the Commissioner of the Corporation

14 When an election is declared void under sub rule (1) of Rule 13 and a fresh election is ordered under clause (*b*) of sub rule (2) of Rule 12 the seat of the returned candidate shall be deemed to be vacant from the date of the order of the Court and the authority concerned shall forthwith take the necessary steps for holding such fresh election

15 An appeal shall lie to the High Court from the order of the Court on a point of law and such appeal shall be preferred within one month from the date of such order exclusive of the time requisite for obtaining a copy of the order

By Order of His Highness the Maharaja

L MUNISWAMY
Secretary to Government
Local Self Government Department

Printed by the Director of Printing Stationery and Publications at the Government Press Bangalore

of the Election are proper
to be made for the Deputy

No 42859/C/30-53-2
3-6-53

To

The Commissioner
Corporation of the City
Bangalore
(Through the Mayor)

Subject: Refund of deposit made during the last Corporation election in 1950

Sir,

With reference to your letter No GL 6028/52-53 dated 23 12 52 on the above subject, I am directed to state that clause (8) of Rule 4 of the Rules for the Election of Municipal Councillors is clear on the point of refund of election deposits. Under this Rule a claim for the refund of the deposit must be declared or sent by post to the Corporation within 6 months from the date of declaration by the Returning Officer of the Result of the Election and no provision is made for the deduction

of the period during which the election petition is pending before the District Court, nor has the 6 months Rule any reference to the date of disposal of the Election petition Hence Sri T. V. Ramachandra Rao is not entitled to get a Refund of the deposit

I agree to add further that the period of 6 months for delivery to the Collector a Claim for Refund as now excluded under the Recovery issued amendment to one year and this period shall suffice to provide for all Consequences

Yours faithfully
for L S G Secy
12/5/53

HS 21/5/53

7

Mysore Government
xxxxxxxxxxxxxx

L2859/CM30-53 2 3rd Page 3

The Asst

L S G & Planning Departments

To

The Commissioner,
Corporation of the City of Bangalore,
(through the Mayor)

Sir,

Subject - Refund of deposit made during the last Corporation election in 1950

With reference to your letter No G1 6028/52-53 dated the 23rd December 1952, on the above subject, I am directed to state that clause (8) of Rule 4 of the Rules for the election of Divisional Councillors is clear on the point of refund of election deposits Under this rule a claim for the refund of the deposit must be delivered or sent by post to the Commissioner within 6 months from the date of declaration by the Commissioner of the results of the election No provision is made for the deduction of the period during which the election petition is pending before the District Court, nor has the 6 months Rule any reference to the date of disposal of the Election petition Hence Sri T N Ramachandra Setty is not entitled to get a refund of the deposit

Yours faithfully,

27/12

(V Hanumanthappa)
Asst Secretary to Government,
L S G & Planning Departments

L S 2 26/5